SUPREME COURT, U.S.
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NO. 14-981

IN THE
SUPREME COURT OF THE UNITED STATES

ABIGAIL NOEL FISHER,
Petitioner,

v.

UNIVERSITY OF TEXAS AT AUSTIN, *et al.*,
Respondents.

On Writ of Certiorari to the
United States Court of Appeals for the Fifth Circuit

BRIEF OF *AMICI CURIAE* RELIGIOUS ORGANIZATIONS AND CAMPUS MINISTRIES INCLUDING THE NATIONAL COUNCIL OF THE CHURCHES OF CHRIST IN THE U.S.A., AMERICAN BAPTIST CHURCHES IN THE U.S.A., THE SAMUEL DEWITT PROCTOR CONFERENCE, THE UNITED CHURCH OF CHRIST, THE PROGRESSIVE NATIONAL BAPTIST CONVENTION, THE AMERICAN BAPTIST HOME MISSION SOCIETY, THE AFRICAN METHODIST EPISCOPAL ZION CHURCH (U.S.A.), AND THE AFRICAN AMERICAN MINISTERS LEADERSHIP COUNCIL IN SUPPORT OF RESPONDENT

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QUESTION PRESENTED

Whether the Fifth Circuit's re-endorsement of the University of Texas at Austin's use of racial preferences in undergraduate admissions decisions can be sustained under this Court's decisions interpreting the Equal Protection Clause of the Fourteenth Amendment, including *Fisher v. University of Texas at Austin*, 133 S. Ct. 2411 (2013).

TABLE OF CONTENTS

QUESTION PRESENTED i

TABLE OF CONTENTS ii

TABLE OF AUTHORITIES iii

STATEMENT OF INTEREST 1

SUMMARY OF ARGUMENT 9

ARGUMENT 10

I. The Benefits of Diverse College Campuses Are Vital To The Growth and Development of Young People of Faith 10

II. Diversity Is Particularly Important At Flagship Schools Like The University Of Texas At Austin 16

CONCLUSION 19

TABLE OF AUTHORITIES

CASES

Christian Legal Soc'y v. *Martinez*, 130 S. Ct. 2971 (2010) 15

Fisher v. Univ. of Texas at Austin, 133 S. Ct. 2411, 186 L. Ed. 2d 474 (2013) ..... i, 12

Grutter v. *Bollinger*, 539 U.S. 306 (2003) ..... *passim*

Keyishian v. *Bd. of Regents of the Univ. of the State of N.Y.*, 385 U.S. 589 (1967) 18

Regents of the Univ. of Cal. v. *Bakke*, 438 U.S. 265 (1978) 15, 18

OTHER AUTHORITIES

AMERICAN BAPTIST CHURCHES (USA), *10 Facts You Should Know About American Baptists*, http://www.abc-usa.org/10facts/ (last visited Oct. 27, 2015) 15-16

AMERICAN BAPTIST CHURCHES (USA), *Mission* 12, 13

AMERICAN BAPTIST CHURCHES (USA), *Vision*, at http://www.abc-usa.org/about-us/welcome_to_abcusa/ (last visited Oct. 26, 2015) 11

BRASKAMP, ET AL., PUTTING STUDENTS FIRST: HOW COLLEGES DEVELOP STUDENTS PURPOSEFULLY (2006) 11

CAMPUS HOUSE OF PRAYER, *Missional Community Movement Vision*, at http://texasunited.org/mission/vision/ (last visited Aug. 8, 2012) 12

EVANGELICAL LUTHERAN CHURCH IN AMERICA, *Freed in Christ: Race, Ethnicity and Culture*, adopted Aug. 31, 1993, http://www.elca.org/What-We-Believe/Social-Issues/Social-Statements/Race-Ethnicity-Culture.aspx 13

Alec Hill, *Committed to Community*, INTERVARSITY CHRISTIAN FELLOWSHIP (Feb. 11, 2003), http://www.intervarsity.org/news/committed-to-community 12

Paul Massingill, *Keys To Creating A Diverse Campus Ministry*, THE GENERAL BOARD OF HIGHER EDUCATION & MINISTRY (July 30, 2011), http://www.gbhem.org/site/apps/nlnet/content3.aspx?c=lsKSL3POLvF&b=5521401&ct=11450361 11

NATIONAL COUNCIL OF CHURCHES, *Member Communions*, http://nationalcouncilofchurches.us/about/ (last visited Oct. 26, 2015) 11

SOJOURNERS, *Diversity Statement*, https://sojo.net/about-us/who-we-are/diversity-statement (last visited Oct. 27, 2015) 15

SOJOURNERS, *History*, at http://sojo.net/about-us/history (last visited Oct. 27, 2015) 14

United States Census Bureau, http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_13_5YR_DP05&src=pt (last visited Oct. 27, 2015) 14

UNIVERSITY INTERFAITH COUNCIL, *Welcome*, http://www.uicut.org/ (last visited Oct. 27, 2015) 13

INTEREST OF *AMICI CURIAE*[1]

Amici are major religious denominations and other religious organizations with a strong interest in securing the benefits of diversity for all students. Several of the *amici* sponsor campus ministries at campuses across the United States, including The University of Texas at Austin. *Amici* are committed to helping members of their communities flourish in their own faith while engaging and interacting with others from diverse backgrounds. *Amici* seek to nurture young people and give them the tools they need to reach their full potential, including being equipped for the pluralistic and multicultural society in which *amici* minister and serve.

The National Council of the Churches of Christ in the USA ("NCCCUSA") is the leading force for ecumenical cooperation among Christians in the United States. The NCCCUSA's member faith groups—from a wide spectrum of Protestant, Anglican, Orthodox, Evangelical, historic African American and Living Peace churches—include 35

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[1] Pursuant to Rule 37.6, the *amici* submitting this brief and their counsel hereby represent that neither the parties to this case nor their counsel authored this brief in whole or in part, and that no person other than *amici* paid for or made a monetary contribution toward the preparation or submission of this brief. *Amici* file this brief in accord with the blanket written consent of all parties to the filing of *amicus curiae* briefs in support of either party or of neither party, copies of which are on file in the Clerk's Office.

million persons in more than 100,000 local congregations in communities across the nation. Each participating denomination brings distinctive faith traditions to the Council's common table. Protestant and evangelical traditions are represented by churches of British, German, Scandinavian and other European origin, historic African American churches, and immigrant churches from Korea and India. Orthodox member communions have roots in Greece, Syria, Russia, the Ukraine, Egypt, India, and other places where Eastern and Oriental Orthodoxy have long histories. And each member communion has a unique heritage, including teachings and practices that differ from those of other members. As they gather in the Council, the member communions grow in understanding of each other's traditions. They work to identify and fully claim those areas of belief they hold in common; they celebrate the diverse and unique gifts that each church brings to ecumenical life; and together they study those issues that divide the churches. They cooperate in many joint programs of education, advocacy and service that address critically important needs and that witness to our common faith. NCCCUSA files in this case out of the belief that genuine unity demands inclusivity and a respect for diversity, and the belief that diversity in higher education teaches all members of society to value diversity, promotes justice, and creates models of shared leadership vital to our democracy.

American Baptist Churches in the U.S.A. ("American Baptists") is one of the most diverse

Christian denominations today, with more than 5,200 local congregations comprised of 1.3 million members across the United States and Puerto Rico. American Baptists are a Christ-centered, biblically grounded, ethnically diverse people called to radical personal discipleship in Christ Jesus. American Baptists nurture authentic relationships with one another; build healthy churches; transform communities, engaging every member in hands-on ministry; and speak the prophetic word in love. As a people of prayer, purpose, and passion, American Baptists are in the forefront of creating a community of faith where people of every race, nationality, and culture gather as one in worship, service and work. American Baptists heed the call to evangelism and mission, seeking to energize the world in discipleship; to serve as witnesses for justice and wholeness; to provide healing and education to all; to promote peacemaking and holistic change; to fight poverty; and to develop leadership in our members. As members of an inclusive religion, American Baptists are gifted by a variety of backgrounds and find unity in diversity, diversity in unity, and embrace a pluralism of race, ethnicity, and gender. American Baptists file in this case out of the belief that diversity in higher education provides all students with a more vibrant educational experience, teaches all members of our society to value its diversity and to find unity in that diversity, develops leaders capable of embracing all members of our pluralistic democracy, and

legitimizes our public institutions by ensuring that they are open to all members of society.

The Samuel DeWitt Proctor Conference, Inc. ("SDPC") represents a cross section of progressive African American faith leaders and their congregations in the United States. Founded in 2003, the SDPC was called into being to continue the rich legacy of the faith community's engagement in issues of social justice. The mission of the SDPC is to nurture, sustain, and mobilize the African American faith community in collaboration with civic, corporate, and philanthropic leaders to address critical needs of human and social justice within local, national, and global communities.

The African Methodist Episcopal Zion Church (U.S.A.) ("AMEZ") is a Christian denomination with over 1.4 million members in the United States, with member churches on five continents with the mission to increase love for God and to help meet the needs of humankind by "Loving God with all our heart, with all our soul, and with our entire mind, and to love our neighbor as ourselves." The AMEZ realizes its mission through spirituality, worship, prayer, obedience, evangelization, ministry, and charity, focusing on each individual as a whole person. To that end, the AMEZ promotes and implements ministries that transform people's lives spiritually, socially, and economically; promotes fellowship with God, believers, and nonbelievers; and affirms the grace inherent in every person. In particular, the AMEZ seeks to empower its members for ministry, so

that each individual may attain the spiritual potential God has for him or her. The AMEZ files in this case out of the belief that diversity in higher education provides all students with a more vibrant educational experience, allowing each student to reach his or her potential; prepares individuals for leadership roles in our democracy; and promotes justice by ensuring that our public institutions are open to all members of society.

The United Church of Christ ("UCC") is a distinct and diverse community of Christians that come together as one church to join faith and action. The UCC was formed in 1957 by the union of the Evangelical and Reformed Church and the General Council of the Congregational Christian Churches of the United States in order to express more fully the oneness in Christ of the churches composing it, to make more effective their common witness in Christ, and to serve God's people in the world. The UCC has over 5,000 Local Churches in the United States, with a membership of nearly 1 million. The General Synod of the UCC, various settings of the UCC, and its predecessor denominations, have a rich heritage of supporting diversity. In 1981 at its thirteenth gathering, the General Synod passed a foundational resolution entitled "Affirmative Action in Church and Society" and in 1995 at its twentieth gathering the General Synod passed a resolution entitled "Recommitment to Affirmative Action in Light of Recent Supreme Court Decisions." The United Church of Christ files in this case out of the belief that diversity in higher education teaches all members of our society to

value its diversity, helps heal societal divisions and unify our society, prepares leaders for their roles in our pluralistic democracy, and legitimizes our public institutions by ensuring that they are open to all members of society.

The Progressive National Baptist Convention is an association of Baptist churches with 1.5 million members in the United States, committed to the mandate of making disciples of Christ. The Convention is founded on the precepts of fellowship, progress, service, and peace and seeks to affirm the "priesthood of all believers." The centerpiece of the Convention's witness is social justice and human liberation as a mandate of the Gospel. As part of its mission, the Convention promotes the training of church leaders and lay members to equip them for a lifetime of ministry to humanity. The Convention is dedicated to the development of leaders in a global, diverse environment, and exposes its leaders to ministry opportunities and experiences in cultures other than their own to increase the effectiveness of their ministry and leadership. The Convention recognizes that the elimination of systematic racism often requires measures to increase diversity. The Convention files in this case out of the belief that diversity in higher education teaches all members of our society to value its diversity; helps to heal societal divisions and unify our society; prepares leaders for their roles in our pluralistic democracy; and legitimizes public institutions of higher education by ensuring that they are accessible to all members of society.

American Baptist Home Mission Society ("ABHMS") answers God's call to live out Christian faith and transform individuals, congregations and communities by developing Christ-centered leaders, networks and programs committed to witness and evangelism, social justice, discipleship and mission work across the United States and Puerto Rico. Missionaries of all types—pastors and lay leaders; chaplains and pastoral counselors; refugee sponsors; directors of neighborhood action program Christian centers; volunteers; Sunday school teachers; and new church planters—partner with ABHMS daily to minister to those in need emotionally, physically, financially, and spiritually. A central part of ABHMS's mission is a commitment to sharing and learning across cultures, and the common understanding that the church is enriched when the contributions of all are engaged in its witness and mission. Through cultural awareness and sensitivity skill development, racial reconciliation training and dialogue, intercultural development tools and coaching, and coordination of activities that promote cross-cultural learning opportunities, ABHMS helps congregations and individuals develop cultural awareness and sensitivity for building a just and inclusive church. ABHMS is also committed to providing and supporting educational opportunities that enable and empower students and ministerial leaders to grow both personally and professionally. ABHMS files in this case out of the belief that diversity in higher education provides all students with a more vibrant educational experience, teaches all members of our society to value its diversity and to find unity in

that diversity, develops leaders capable of embracing all members of our pluralistic democracy, and legitimizes our public institutions by ensuring that they are open to all members of society.

African American Ministers Leadership Council ("AAMLC") is a network comprised of 1,700 African American ministers, who believe churches are called to be centers of caring and action, and that religious leaders are called to lead by example. The AAMLC celebrates the historical role of the Black Church as a place of refuge and a source of strength in the midst of oppression. The AAMLC builds on a strong association of pastors, clergy, theologians, seminarians, and ministry lay leaders to promote civic engagement, social justice programs, access to public education, health care, and economic justice for all. In particular, the AAMLC realizes its call and mission by giving pastors and lay leaders tools and access to support for strengthening congregations and communities. The AAMLC files in this case out of the belief that diversity in higher education provides all students with a more vibrant educational experience, teaches individuals to reach out to others with caring, prepares individuals for leadership roles in our society, and promotes the accessibility of institutions of public education to all comers.

SUMMARY OF ARGUMENT

The debate and discussion that characterize colleges and universities at their best require effective participation by members of a multitude of groups. Diversity of perspective and experience furthers the goals of providing students with the tools to live in a pluralistic society, cultivating future leaders, and giving individuals the tools to mature in faith, compassion, and mutual understanding. Interactions across socioeconomic, racial, ethnic, and religious lines give all individuals the opportunity to explore new and varied points of view, to develop their unique talents and gifts, and to reach out to others with kindness, respect, and compassion. The presence of only a few members of different groups, however, impedes these goals and undermines the vital principles of open access and equality.

To reap the benefits of diversity a university community must include a critical mass of minorities so that members of each group can bring their individualized experiences to bear, rather than be perceived as simply representative of one specific group. *Amici* religious organizations and denominations, some of which sponsor thriving campus ministries at The University of Texas at Austin and other colleges and universities throughout the Nation, are committed to enhancing and strengthening the independence, inclusion, individuality, and diversity of all people. *Amici* further believe it is important for "racial minorities to have their

special circumstances considered in order to improve their educational opportunities * * * *." *Grutter* v. *Bollinger*, 539 U.S. 306, 395 (2003) (Kennedy, J., dissenting).

Amici therefore support policies that promote diversity in higher education in a holistic fashion so that individuals have the opportunity to develop their full potential. Such policies provide flexibility to consider each individual's unique experiences and background and to admit students of all backgrounds, who bring an array of talents and leadership skills that are essential to realizing the benefits of a student body that is not just racially diverse, but diverse along all lines. This broad diversity is fundamental to the university, which serves as a vital training ground for future political, civic, and business leaders of the Nation. It is also fundamental to *amici*, which similarly value the rich diversity of the college communities in which their members are educated, and in which *amici* minister and serve.

ARGUMENT

I. The Benefits of Diverse College Campuses Are Vital To The Growth and Development of Young People of Faith

A central goal of any religious denomination or organization is to provide its members, including particularly college students, with faith communities in which to grow and develop. *See, e.g.*, American

BAPTIST CHURCHES (USA), *Vision* ("As a people of prayer, purpose, and passion, we are in the forefront of creating a community of faith where people of every race, nationality and culture gather as one in worship, service and work.").[2] As part of this effort, *amici* and other religious organizations seek to promote recognition of the worth and dignity of every human being and the value of inclusive communities. NATIONAL COUNCIL OF CHURCHES, *Member Communions* ("NCC believes that genuine unity demands inclusivity and a respect for diversity.").[3]

In their work, *amici* and other faith-based organizations celebrate the uniqueness of each individual, and seek to encourage—and challenge—members in developing their own potential, particularly during the critical college years. *See, e.g.*, BRASKAMP, ET AL., PUTTING STUDENTS FIRST: HOW COLLEGES DEVELOP STUDENTS PURPOSEFULLY 191 (2006) ("Students are learning and developing in college for a purpose: that is, to be of service to the world." (citation omitted)). At the same time, *amici* and other faith groups focus on outreach to and engagement with wider communities—teaching and fostering respect for those of different faiths, opinions, and beliefs. *See, e.g.*, Paul Massingill, *Keys To Creating A Diverse Campus Ministry* (explaining the "core commitment

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[2] http://www.abc-usa.org/about-us/welcome_to_abcusa/ (last visited Oct. 26, 2015).

[3] http://nationalcouncilofchurches.us/about/ (last visited Oct. 26, 2015).

that following Jesus and being in Christian community requires us to be in relationship with those who are 'different' than we are").[4] In doing so, they seek to promote authentic relationships, which are the foundation of the true community that faith organizations seek to foster. *See, e.g.*, AMERICAN BAPTIST CHURCHES (USA), *Mission Statement* ("Our commitment to Jesus propels us to nurture authentic relationships with one another."); Alec Hill, *Committed to Community* (seeking "true community" marked by "authenticity" and noting the importance of "building a community to reach a community").[5]

Diverse college campuses are fundamental to these efforts because they provide critical settings in contemporary society where individuals "learn from one another and challenge one another." CAMPUS HOUSE OF PRAYER, *Missional Community Movement Vision*.[6] As the Supreme Court recognized most recently in *Fisher v. Univ. of Texas at Austin*, 133 S. Ct. 2411, 2418, 186 L. Ed. 2d 474 (2013), "the attainment of a diverse student body. . . serves values. . . including enhanced classroom dialogue and the lessening of racial isolation and stereotypes." Learning about others and the "wider world" promotes "understanding" and "compassion". BAPTIST CHURCH, *College*

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[4] THE GENERAL BOARD OF HIGHER EDUCATION & MINISTRY, http://www.gbhem.org/article/keys-creating-diverse-campus-ministry (last visited Oct. 26, 2015).

[5] INTERVARSITY CHRISTIAN FELLOWSHIP (Feb. 11, 2003), http://intervarsity.org/news/ committed-to-community.

[6] http://texasunited.org/mission/vision/ (last visited Oct. 26, 2015).

Ministry, Labyrinth.[7] A diverse campus environment is necessary for students to grow in their faith and develop into whole persons.

Amici, through sponsorship of campus ministries and many other activities, focus not only on building authentic, meaningful relationships and teaching individuals to develop into whole persons, but also on sharing their faith with and ministering to diverse people. AMERICAN BAPTIST CHURCHES (USA), *Mission* ("[W]e work together in mutual submission, humility, love, and giving that the gospel might be preached and lived in all the world."). To do this requires that campus ministries and other faith organizations "encourage and participate in the education of young people, in order that they might be better equipped to live in a multicultural society." EVANGELICAL LUTHERAN CHURCH IN AMERICA, *Freed in Christ: Race, Ethnicity and Culture*.[8]

To this end, *amici* frequently partner with other faith-based groups to advance their mutual goals and missions. *See, e.g.*, UNIVERSITY INTERFAITH COUNCIL, *Welcome* (discussing goal "to provide mutual support, to discuss issues and values relevant to our ministries at U.T., and to facilitate common programs with each other");[9]

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[7] http://www.labyrinthatx.org/?page_id=50 (last visited Oct. 27, 2015).

[8] Adopted Aug. 31, 1993, http://download.elca.org/ELCA%20Resource%20Repository/RaceSS.pdf?_ga=1.44435876.1404772099.1445961879.

[9] http://www.uicut.org/ (last visited Oct. 27, 2015).

SOJOURNERS, *History* (explaining goal of "uniting churches and faith-based organizations across the theological and political spectrum.");[10] This collaboration and partnership is critical to achieving *amici*'s shared mission of change and growth in their communities and the world. And such collaboration and partnership requires the ability to reach out to diverse individuals and organizations.

Amici recognize that they must prepare their members to live out their faith in a world that is increasingly diverse. The population of the United States is today approximately 311 million, consisting of approximately 51.1 million Latinos or Hispanics (16.6 percent); 42.4 million Black and African Americans (13.6 percent), 17.8 million Asian Americans (5.7 percent), and 5.1 million Native Americans (1.7 percent). *Profile of General Population and Housing Characteristics: 2013*.[11] By 2050, it is expected that the population will consist of approximately 128 million Latinos or Hispanics (29 percent); 59 million Black and African Americans (13 percent), and 41 million Asian Americans (9 percent). Jeffrey S. Passel & D. Vera Cohn, *U.S. Population Projections 2005-2050* 9-10. Thus by 2050, it is likely that no single racial

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[10] http://sojo.net/about-us/history (last visited Oct. 27, 2015).

[11] United States Census Bureau, http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_13_5YR_DP05&src=pt (last visited Oct. 27, 2015).

group will account for over 50 percent of the population. *Id.* at 10.

For faith-based groups to properly equip their members to minister to, serve, and partner with diverse communities, now and in the future, it is vital that members be exposed to diversity in ways that allow students of faith to explore new points of view, develop interests and talents, and "'reexamine their most deeply held assumptions about themselves and their world.'" *Christian Legal Soc'y* v. *Martinez*, 130 S. Ct. 2971, 2999 (2010) (Kennedy, J. concurring) (quoting *Regents of the Univ. of Cal.* v. *Bakke*, 438 U.S. 265, 312, 313, n.48 (1978)). It is vital that these members encounter and engage individuals of different economic, racial, ethnic, and religious backgrounds. This is not merely a compelling educational interest; it is an imperative for the development of an active and involved citizenry. *See Grutter*, 539 U.S. at 332 ("Effective participation by members of all racial and ethnic groups in the civic life of our Nation is essential if the dream of one Nation, indivisible is to be realized."); *see also* SOJOURNERS, *Diversity Statement* ("We believe that unity in diversity is not only desirable, but *essential* to fulfilling God's ultimate desire for God's people, as expressed in scripture (Acts 2, Revelation 7:9), and thus an essential element of seeking God's will on earth as it is in heaven." (emphasis in original));[12] AMERICAN BAPTIST CHURCHES (USA), *10 Facts You Should*

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[12] https://sojo.net/about-us/who-we-are/diversity-statement (last visited Oct. 27, 2015).

Know About American Baptists ("American Baptist Churches USA today is the most racially inclusive Protestant body. Represented in our churches are equally diverse worship styles, cultural mores and approaches to Scriptural interpretation. The resulting challenges and opportunities have made us stronger—through fellowship, respect, mutual support and dialog, all based on a belief that unity in Christ involves growth and understanding.").[13]

To fulfill their own missions of helping their members grow in their faith, understanding and compassion; providing the tools their members will need to reach their full potential as individuals in our ever-changing pluralistic society; and cultivating leaders for the next generation, *amici* rely on the existence of rich diversity along all lines at our Nation's colleges and universities.

II. Diversity Is Particularly Important At Flagship Schools Like The University Of Texas At Austin

Amici share both a conviction that the tradition of pluralism is enhanced when people of faith bring their concerns and convictions into public life, and a moral obligation to work towards a more just society in which access to opportunity is visibly open to all. That obligation extends to ensuring that each individual's worth is recognized and that all have equal access to higher education and the opportunities that flow from it, regardless

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[13] http://www.abc-usa.org/10facts/ (last visited Oct. 27, 2015).

of economic status, race, ethnicity, religion, or creed.

Given these principles, it is exceptionally important that flagship schools—like The University of Texas at Austin—ensure their campuses are diverse along all lines. The realization of each individual's potential is brought to fruition when elite universities are clearly open to all comers. This openness reinforces our pluralistic tradition, helping to ensure essential and "[e]ffective participation by members of all racial and ethnic groups in the civic life of our Nation." *Grutter*, 539 U.S. at 332.

Flagship schools disproportionately develop the leaders who shape civic and political life. *Ibid.* In a world where civic, political, religious, and community life is ever more diverse, it is essential to the growth of future leaders that they be exposed to and reflect the wealth of diversity that exists, and experience the diverse communities they will lead. This helps to guarantee their legitimacy, by making "the path to leadership [ ] visibly open to talented and qualified individuals of every race and ethnicity." *Ibid.*

Additionally, flagship schools educate *amici*'s members, who go on to serve as role models in charitable and community life. The members of faith-based organizations are better equipped to act as role models, living and teaching their faith in a diverse world, when they have been educated in an environment that is diverse in all ways. Access to and experience of a richly diverse education assists

all individuals in realizing their unique potential, thus enabling them to better serve and minister to their diverse communities. And students are not the only beneficiaries of diverse flagship institutions. The Nation, too, benefits as its "'future depends upon leaders trained through wide exposure' to the ideas and mores of students as diverse as this Nation of many peoples." *Bakke*, 438 U.S. at 313 (quoting *Keyishian* v. *Bd. of Regents of the Univ. of the State of N.Y.*, 385 U.S. 589, 603 (1967)).

A diverse student body is therefore essential to provide students with the tools to live in a pluralistic society, to cultivate future leaders, and to make sure that individuals mature in faith and compassion to become active, engaged members of our communities. But the presence of only a few members of different groups impedes these goals and undermines the central tenets of accessibility and equality.

Achieving the benefits of diversity requires that there be enough individuals of all types on a campus, so that no one individual feels isolated as a result of his or her unique characteristics, and so that no single individual is made to feel like a "spokesperson" for his or her group. In essence, the goal of critical mass is to make sure that an individual is not seen in a binary context, but rather as a whole person— unique and deserving of respect. Reaching a critical mass thus enables members of all groups to share their *individualized* experiences, rather than being viewed simply as representative of a specific group.

Grutter, 539 U.S. at 333. For individuals to realize their shared humanity, to accept one another as individuals, to experience meaningful communication, and to grow into their true potential, it is vital to experience diversity of all forms, to understand that every individual has a unique context, and to value that context.

CONCLUSION

For these reasons, *amici* respectfully request that the Court affirm the decision of the Fifth Circuit Court of Appeals and conclude that The University of Texas appropriately considers race as one factor among many in its holistic review of applicants in an effort to admit and educate a diverse group of students.

Respectfully submitted,

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